No. 268

In the Supreme Court of the United States

October Term, 1968

RALPH LOWTER, PETITIONER

v.

UNITED STATES OF AMERICA

MEMORANDUM SUGGESTING MOOTNESS

ERWIN N. GRISWOLD,
Solicitor General,
Department of Justice,
Washington, D.C. 20530.

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MEMORANDUM SUGGESTING MOOTNESS

The petition for a writ of certiorari in this case, filed on July 3, 1968, seeks review of the judgment of the court of appeals affirming the Commission's dismissal without prejudice of petitioner's applications for amateur and citizen's radio licenses. The dismissal of the applications was based on petitioner's refusal to answer the Commission's inquiry as to whether he was or had ever been a member of the Communist Party or of any organization or group which advocates or teaches the overthrow of the government of the United States, or of any political subdivision thereof, by force or violence.

On August 22, 1968, the Commission, on further consideration, granted petitioner's applications for amateur and citizen's radio licenses, pursuant to a newly adopted policy whereby the Commission will no longer require applicants in the non-commercial

services to answer inquiries of the type involved in this case. Both the immediate case and the underlying issues have thus become moot. Accordingly, the Court should grant the petition for a writ of certiorari, vacate the judgment of the court of appeals, and remand the case to that court with instructions that it be dismissed as moot. See, *e.g.*, *Weiss* v. *Gardner*, 386 U.S. 9; *Platt* v. *Minnesota Mining Co.*, 382 U.S. 456; *United States* v. *Leiter Minerals, Inc.*, 381 U.S. 413; *United States* v. *Munsingwear, Inc.*, 340 U.S. 36, 39.

Respectfully submitted.

ERWIN N. GRISWOLD,
Solicitor General.

HENRY GELLER,
General Counsel,
Federal Communications Commission.

AUGUST 1968.

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